

HOUSE BILL NO. 514

INTRODUCED BY J. COHENOUR

A BILL FOR AN ACT ENTITLED: "AN ACT AUTHORIZING THE USE OF TAX-EXEMPT SPECIAL FUEL BY INDEPENDENT CONTRACTORS TRANSPORTING SCHOOL DISTRICT PUPILS; AUTHORIZING A REFUND OF TAXES PAID ON FUEL THAT IS NOT TAX EXEMPT WHEN PAID BY INDEPENDENT CONTRACTORS TRANSPORTING SCHOOL DISTRICT PUPILS AND AMENDING SECTION 15-70-356 AND 15-70-321, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 15-70-356, MCA, is amended to read:

"15-70-356. Refund or credit authorized. (1) A person who purchases and uses any special fuel on which the Montana special fuel license tax has been paid for operating stationary special fuel engines used off the public highways and streets, OPERATING A BUS UPON ANY OF THE PUBLIC HIGHWAYS OR STREETS OF THIS STATE TO TRANSPORT PUPILS OF A PUBLIC SCHOOL DISTRICT FOR SCHOOL RELATED PURPOSES or for any commercial use other than operating vehicles upon any of the public highways or streets of this state is allowed a refund of the amount of tax paid directly or indirectly on the special fuel used if the person has records, as provided in 15-70-323, to prove nontaxable use. The refund may not exceed the tax paid or to be paid to the state.

(2) (a) The United States government, the state of Montana, any other state, or any county, incorporated city, town, or school district of this state is entitled to a refund of the taxes paid on special fuel regardless of the use of the special fuel.

(b) (i) A nonpublic school may use dyed special fuel in buses that are owned by the nonpublic school if the buses are used for the transportation of pupils solely for nonsectarian school-related purposes.

(ii) For the purposes of this subsection (2)(b), nonpublic schools are those schools that have been accredited pursuant to 20-7-102.

(c) An independent bus contractor may use dyed special fuel solely in buses used UPON ANY OF THE PUBLIC HIGHWAYS OR STREETS OF THIS STATE under a contract with a school district SOLELY to transport pupils for school-related purposes.

(3) A distributor who pays the special fuel license tax to this state erroneously is allowed a credit or refund of the amount of tax paid.

(4) (a) A distributor is entitled to a credit for the tax paid to the department on those sales of special fuel with a tax liability of \$200 or greater for which the distributor has not received consideration from or on behalf of the purchaser and for which the distributor has not forgiven any liability. The distributor shall have declared the accounts of the purchaser worthless not more than once during a 3-year period and claimed those accounts as bad debts for federal or state income tax purposes.

(b) If a credit has been granted under subsection (4)(a), any amount collected on the accounts declared worthless must be reported to the department and the tax due must be prorated on the collected amount and must be paid to the department.

(c) The department may require a distributor to submit periodic reports listing accounts that are delinquent for 90 days or more.

(5) A person who purchases and exports for sale, use, or consumption outside Montana any special fuel on which the Montana special fuel tax has been paid is entitled to a credit or refund of the amount of tax paid unless the person is not licensed and is not paying the tax to the state where fuel is destined. Upon completion of the reports required under 15-70-351, the department shall authorize the credit or refund."

Section 2. Section 15-70-321, MCA, is amended to read:

15-70-321. Tax on special fuel and volatile liquids. (1) **EXCEPT AS OTHERWISE PROVIDED FOR INDEPENDENT BUS CONTRACTORS TRANSPORTING PUPILS FOR SCHOOL RELATED PURPOSES PURSUANT TO 15-70-356, MCA,** The **THE** department shall, under the provisions of rules issued by it, collect or cause to be collected from the owners or operators of motor vehicles a tax, as provided in subsection (2):

(a) for each gallon of undyed special fuel or other volatile liquid, except liquid petroleum gas, of less than 46 degrees A.P.I. (American petroleum institute) gravity test when actually sold or used to produce motor power to operate motor vehicles upon the public roads and highways of this state;

(b) for each gallon of special fuel or other volatile liquid, except liquid petroleum gas, of less than 46 degrees A.P.I. (American petroleum institute) gravity

test when actually sold or used in motor vehicles, motorized equipment, and the internal combustion of any engines, including stationary engines, used in connection with any work performed under any contracts pertaining to the construction, reconstruction, or improvement of any highway or street and their appurtenances awarded by any public agencies, including federal, state, county, municipal, or other political subdivisions; and

(c) for each gallon of dyed special fuel delivered into the fuel supply tank of a diesel-powered highway vehicle, regardless of weight, operating upon the public roads and highways of this state.

(2) The tax imposed in subsection (1) is 27 3/4 cents per gallon.

(3) Material used for construction, reconstruction, or improvement in connection with work performed under a contract as provided in subsection (1)(b) must be produced using special fuel on which state fuel tax has been paid.

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